



October 15, 2021

VIA FOIAONLINE

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Phone: (202) 566-1667

Re: Freedom of Information Act Request: DTE Energy Monroe Power Plant

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, *as amended* (“FOIA”), from Sierra Club, a nonprofit organization whose purpose is to explore, enjoy and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.

REQUESTED RECORDS¹

Sierra Club requests records of the following type in the possession, custody, or control of the U.S. Environmental Protection Agency (“EPA”) for the time period starting from **January 1, 2018** up through and including the date that you conduct your search for documents:

1. Any and all correspondence with the state of Michigan or representatives of DTE Energy relating to the renewal of the National Pollution Discharge Elimination System (“NPDES”) permit for Monroe Power Plant located at 3500 E. Front Street, Monroe, MI 48161 (Permit ID #MI0001848).
2. Any other EPA records relating to the application for renewal, or proposed renewal, of

¹ “Records” means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, emails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final or otherwise. All of the foregoing are included in this request if they are in the possession of or otherwise under the control of EPA, National Headquarters and all of its Offices, Regions and other subdivisions.

Monroe's NPDES permit.

DUTY TO PRESERVE RECORDS

EPA must preserve all the records requested herein while this FOIA is pending or under appeal. 40 C.F.R. § 2.106 (“[r]ecords shall not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA”); *see Chambers v. U.S. Dep't of Interior*, 568 F.3d 998, 1004 (D.C. Cir. 2009) (“an agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under FOIA or the Privacy Act”).

Accordingly, please immediately advise custodians of potentially responsive records that the above records have been requested under FOIA and therefore may not be destroyed.

EXEMPT RECORDS

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information for the Sierra Club to appeal the denial, including:

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and
2. Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and deliver the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

FORMAT OF REQUESTED RECORDS

Under FOIA, you are obligated to provide records in the format requested if the record is readily reproducible by the agency in that format. *See, e.g.*, 5 U.S.C. § 552(a)(3)(B). We request that you provide electronic documents individually, and not as batched files. Specifically, for any document stored as Electronically Stored Information (ESI), we request that the document be produced in the native file type. This includes e-mail (whether sent, received or drafted), word-processing files, tables, charts, graphs and database files, electronic calendars, proprietary software files, and spreadsheets. ESI can also be provided in the form of a load file that includes a common file type (TIFF, HTML, PDF) while maintaining access to the native file and its source data, including the ability to keyword search documents.

RECORD DELIVERY

We appreciate a prompt determination on the requested records. As mandated by FOIA, we

anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). You may email copies of the requested records to:

Precious.Onuohah@sierraclub.org

If you are unable to deliver the documents through electronic means, please deliver the documents to:

Precious Onuohah
Sierra Club Environmental Law Program
2101 Webster St., Ste. 1300
Oakland, CA 94612

Please send documents on a rolling basis. EPA's search for—or deliberations concerning—certain records should not delay the production of others that EPA has already retrieved and elected to produce. *See generally* 40 C.F.R. § 2.104 (describing response deadlines).

FEE WAIVER REQUEST

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107(l). Sierra Club is a not-for-profit organization with no commercial interest in the request. Sierra Club has long advocated for clean water in Michigan through public education, organizing, and legal engagements and has the expertise to review and evaluate the requested documents. Sierra Club's evaluation and distribution of the documents will further the public's understanding of pollution from the Monroe coal-fired power plant, whether DTE Energy is in compliance with applicable environmental regulations, and EPA's oversight of compliance with the Clean Water Act. Through its website, list-serves, newsletters, and other publications, Sierra Club has the ability to broadly disseminate information so that it benefits the public at large and not just a limited group of people. Accordingly, all of the factors necessary for a fee waiver are met.

Thank you for your cooperation. If you find that this request is unclear in any way please do not hesitate to call me to see if I can clarify the request or otherwise expedite and simplify your efforts to comply. I can be reached by email at precious.onuohah@sierraclub.org.

Respectfully submitted,

/s/ Precious Onuohah
Precious Onuohah